

Part II: Operations

Article 5. Implementation and Maintenance of the Unified Program

15180. *What are the minimum administrative procedures the applicant agency must establish and the CUPA must undertake to ensure a consolidated, coordinated and consistent Unified Program?*

(a) The applicant agency shall establish and the CUPA shall implement, administrative procedures to carry out the requirements of consolidating, coordinating, and making consistent the Unified Program. These procedures shall include, at a minimum, the following:

(1) Public participation.

(A) Public participation shall include, at a minimum, procedures to coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.

(B) Public participation shall, to the extent feasible, include consolidated public notices for activities related to the elements of the Unified Program.

(2) Information management.

(A) The Unified Program shall include procedures for records maintenance. These will include at a minimum:

(i) identification of the records maintained

(ii) minimum retention times

(iii) archive procedures

(iv) proper disposal methods

(B) Responsible agencies shall institute procedures to respond to requests from the public, from government agencies with a legal right to access the information, or from emergency responders.

(C) Personnel records

(i) The responsible agency shall maintain training records.

(ii) The responsible agency shall make training records available to the CUPA upon request.

(iii) The CUPA shall provide training records or access to training records to the Secretary upon 30 days request.

(D) Hazardous Material Release Response Plans and Inventory information shall be sent by the responsible agency to other local agencies with shared responsibilities for protection of public health and safety and the environment within 15 days of receipt and confirmation in

accordance with Health and Safety Code, Section 25509.2(a)(2) and (3).

(E) Within three months of the Secretary's approval of the electronic data transmission protocol developed pursuant to Public Resources Code, Division 34, Chapter 3, Section 71060 et seq., Data Management, a CUPA shall accept data from businesses in the approved electronic data transmission protocol, if the CUPA agrees to accept information electronically.

(F) The CUPA may permit a regulated business to meet its information reporting requirements electronically. In such case, the format and mode of the submission shall be specified by the CUPA and shall be consistent with the data standards adopted in Articles 5 through 10 inclusive.

(G) The CUPA shall utilize existing statutorily required electronic data transmission protocols for the Unified Program elements until December 31, 1998, unless authorized earlier by the Secretary, or until such time that the Secretary approves the electronic data transmission protocol referenced in subsection (H), whichever is sooner.

(H) Upon the Secretary's approval of the electronic data transmission protocol developed pursuant to Public Resources Code, Division 34, Chapter 3, Section 71060 et seq., Data Management, a CUPA shall accept data from businesses in the approved electronic data transmission protocol.

(3) Financial management.

(A) The Unified Program shall include a Financial Management System. The Financial Management System shall:

(i) implement the single fee system.

(ii) include a mechanism for fee accountability in compliance with Section 15210(b).

(4) Dispute resolution. The CUPA shall implement a dispute resolution process, designed to resolve problems arising between the participating agencies and the CUPA.

(5) Formal appeal process. The Unified Program shall include procedures which allow for appeal of a dispute resolution pursuant to paragraph (4) of this subsection.

(6) Comments from facilities and public. The CUPA shall ensure that the Unified Program includes a mechanism to receive and consider comments related to Unified Program performance from regulated businesses and the public on a regular basis.

(7) Unified Program meetings.

(A) The CUPA shall conduct meetings, to coordinate and to maintain

consistency within the Unified Program, at least four times annually or as specified in the implementation plan pursuant to Section 15150(e)(6).

(B) Representatives of the CUPA and all PAs within the CUPA's jurisdiction will attend.

(8) Participating agency management.

(A) The governing body of the CUPA shall enter into written agreements with the governing bodies of all participating agencies to implement specific element(s) of the Unified Program.

(B) The CUPA shall establish procedures for withdrawal or revocation of participating agencies which shall be in the written agreement.

(C) The CUPA shall include an evaluation of participating agency performance in an annual self audit, pursuant to Section 15280(a).

(D) A participating agency which ceases to meet minimum qualifications or fails to implement its program element(s) as described in the Unified Program application approved by the Secretary, at any time during the term of its agreement with the CUPA, shall enter into a program improvement agreement with the CUPA. The program improvement agreement shall specify the areas of improvement, minimum accomplishments necessary, and time frames which shall be met.

(E) The CUPA may apply to the Secretary, in accordance with Section 15300, for approval to replace a participating agency which fails to perform according to the program improvement agreement.

(9) Self Auditing. The CUPA shall conduct an annual self audit which meets the requirements of Section 15280(a).

(10) Reporting. The CUPA shall comply with reporting and self-auditing requirements identified in Sections 15250, 15280, and 15290.

(b) The Secretary for Environmental Protection, shall, within five years of the effective date of the regulations in this Article, determine whether the regulations should be retained, revised, or repealed.

Authority cited: Sections 25404(b) and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25103, 25404.2(a) and (c), 25404.3(d), 25404.4(a)(1), 25404.5, 25500, 25506, 25509.2(a)(3), and 25534.5, Health and Safety Code; Section 6253 et seq., Government Code.

15185. *What information must CUPAs collect, retain, and manage?*

(a) CUPAs shall collect, retain, and manage information needed to implement the Unified Program. At a minimum, the CUPAs shall collect and retain all

information defined in the Unified Program Data Dictionary. [Refer to Appendices C

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and D]

(b) The data dictionary defines data elements, data field size and type, and edit criteria for regulatory data that shall be collected and retained by a CUPA. [Refer to definition in Section 15110] It consists of the following sections:

(1) The Business Section for information reported by businesses to CUPAs using the Unified Program Consolidated Form [refer to Section 15400]. The Business Section of the Data Dictionary is organized into the following parts:

(A) Facility Information

- (i) Business Activities
- (ii) Business Owner/Operator Identification

(B) Hazardous Materials

- (i) Hazardous Materials Inventory-Chemical Description

(C) Tanks

- (i) Underground Storage Tank (UST) Facility
- (ii) UST Tank
- (iii) UST Installation-Certificate of Compliance

(D) Hazardous Waste

- (i) Recyclable Materials Report
- (ii) Onsite Hazardous Waste Treatment Notification-Facility
- (iii) Onsite Hazardous Waste Treatment Notification-Unit
- (iv) Certification Of Financial Assurance for Permit by Rule and Conditionally Authorized Operations
- (v) Remote Waste Consolidation Site Annual Notification
- (vi) Hazardous Waste Tank Closure Certification

(2) The CUPA Section for information that shall be collected and retained by a CUPA and reported to the State pursuant to Section 15290. [Appendix D] The CUPA Section of the Data Dictionary is organized into the following sections:

(A) Compliance Activity Information

(B) Inspection Information

(C) Enforcement Information

(D) Tiered Permitting Release Information

(E) Household Hazardous Waste Information (*reserved*)

(c) CUPAs shall collect, retain, and manage any additional information required by state or federal law.

(d) CUPAs may satisfy these information collection, retention, and management requirements through agreements with Participating Agencies that serve as the

repository of the information.

(e) Electronic reporting is optional and the CUPA is not required to store or maintain the data in the Unified Program Data Dictionary format (Appendices C and D). The Data Dictionary data structures and formats must be used for electronic reporting by businesses to a CUPA pursuant to Section 15187 or by a CUPA to the State pursuant to Sections 15187 and 15290(f) and (g).

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25218.2, 25218.9, 25286, 25287, 25503.5, 25505, 25506, and 25509, Health and Safety Code.

15186. What are the definitions of the data terminology used in the Unified Program information standards?

(a) For the purposes of this Division, the following terms related to Unified Program information standards have the following meaning:

Data elements are the information components required by applicable statutes or regulations.

Data transmission protocol means a standard for sharing electronic data.

Electronic reporting or sharing of data means transferring data or information using an electronic or magnetic media.

File format means how data is packaged in any of these modes.

Format means the order, arrangement, style, and organization of the data elements comprising the UPCF.

Media means the type of device used to share data from the source to a recipient. Examples include telecommunications transmissions, such as e-mail or direct computer to computer links and magnetic media such as disks, diskettes, and tapes.

Mode means the method by which data is shared. Common modes include e-mail, diskette, tape, and CD ROM. Mode encompasses the file format and data transmission protocol.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code.
Reference: Section 25503.3(b), Health and Safety Code.

15187. How do regulated businesses and CUPAs use the data dictionary and

provide information electronically?

(a) If a CUPA accepts any information electronically, the CUPA shall accept all submissions that contain the data elements with the required field length and type and in the order specified in the data dictionary. A CUPA may, on a case-by-case basis, agree to accept information that does not meet the data dictionary standard.

(b) A regulated business may report information collected on the UPCF or on an alternative version developed by the CUPA [refer to Sections 15400 and 15400.3] to a CUPA electronically, if the CUPA agrees to accept it electronically. In addition:

(1) Upon agreement by the CUPA, the business may submit data in either the ASCII flat file format, ANSI X12, or an alternative file format.

(2) The business shall submit data in the mode specified by the CUPA.

(c) The CUPA may establish local standards for the collection of locally required supplemental information in addition to standards specified in the Unified Program Data Dictionary.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25503.3(a) and (b), Health and Safety Code; Section 71060 et seq, Public Resources Code.

15187.1. What are the requirements for use of electronic signatures with electronic submittals of Unified Program information?

(a) If a business submits regulatory information specified in the data dictionary electronically, a digital signature may be used in lieu of a manual signature to identify the party submitting the data, subject to agreement with the party to receive the data and provided the method used is not precluded by state or federal law.

(b) For the purposes of the UPCF and data dictionary, both the UPCF and data submitted per the requirements of the Data Dictionary constitute a writing.

(c) For the purposes of the UPCF and data dictionary, signed or signature means any symbol, including a digital signature, executed or adopted by a party with present intention to authenticate a writing.

(d) An electronic signature may not be denied legal effect, validity, or enforceability solely on the ground that it is electronic.

- (e) An electronic signature, message, or record, is attributable to a person if:
 - (1) It was the action of that person, that person authorized the action, or that person's agent took the action; or
 - (2) The party in receipt of the electronic signature, message, or record, concluded in good faith that it met any of the criteria in (e)(1) above.

Authority cited: Section 25404(e), Health & Safety Code, Sections 71061 and 71066, Public Resources Code, and Section 16.5(c), Government Code.

References: Sections 71060 et seq., Public Resources Code, Section 16.5, Government Code, ABA, Section of Science and Technology, *Digital Signature Guidelines, Legal Infrastructure for Certification Authorities and Secure Electronic Commerce*, August 1, 1996, Sections 2B-113, 2B-115, 2B-118 of the Proposed Uniform Commercial Code, Section 250 of the California Evidence Code, and Section 1001(a) of the Federal Rules of Evidence.

15188. *How long must a CUPA retain information?*

- (a) A CUPA shall retain information as follows:
 - (1) A CUPA shall retain copies of inspection reports, enforcement files, and onsite Tiered Permitting notifications for at least five (5) years. A CUPA shall retain all records related to hazardous waste enforcement actions for at least three (3) years after the enforcement action is resolved.
 - (2) For CUPA-to-State reports, a CUPA shall retain the information used to produce the summary reports to the state listed in section 15290.
 - (A) CUPAs that do not use an electronic data management system shall retain the detailed records used to produce the summary reports for a minimum of five (5) years after the report is submitted.
 - (B) CUPAs that use an electronic data management system may satisfy the records retention requirement by maintaining an electronic copy of the data used to produce the summary reports, Reports 2 to 6. These electronic records of the CUPA information shall be retained for a minimum of five (5) years.
 - (C) CUPAs may establish electronic data management systems that retain all previous historical information whenever information is updated so that a complete historical record as of a specific date can be generated to recreate the detailed information for each summary report required by Section 15290.

- (b) CUPAs shall collect and retain any additional information required by state or federal law.

Authority cited: Sections 25404(b), (c), (d) and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404.2(a)(4) and 25404.6(b).

15190. *How must permitting occur within the Unified Program?*

(a) The Unified Program shall include a Consolidated Permit Program which shall be implemented according to a Consolidated Permit Program Plan.

(b) The Consolidated Permit Program requires:

(1) Consolidation of permits. The CUPA shall consolidate the permits issued under the Unified Program utilizing the Unified Program Facility Permit;

(2) A single point of local contact for permit applicants. The program shall provide for a coordinated and consolidated permit process which provides regulated businesses a single point of local contact for obtaining information on, the requirements for, and the application process for the Unified Program consolidated permit.

(A) A single point of contact for referrals to appropriate participating agencies, if applicable.

(3) A consolidated permit application package.

(A) The responsible agency shall provide a consolidated permit application package for the specific requirements of regulated businesses.

(B) The permit application may be presented as a single form, designed to transmit multi-program information, or it may be multiple forms arranged into a single package.

(C) Duplicate information between different forms is allowed only if it is necessary to provide for form tracking.

(D) To avoid duplication, the CUPA shall utilize the applicable sections of the Unified Program Consolidated Form [refer to 15400] and, if necessary, additional information [refer to 15400.4] to collect the required information for a permit application.

(4) A system to define permits. The Consolidated Permit Program shall include a system to define which program elements require permits for activities of each regulated business.

(5) Use of the Consolidated Contingency Plan format pursuant to Health and Safety Code, Section 25503.4 and Government Code Section 8670.36.5 et seq.

(A) The Consolidated Contingency Plan format developed by the CUPA shall be substantially equivalent to the format developed by the

Governor's Office of Emergency Services pursuant to Health and Safety Code, Section 25503.4, when that format has been adopted.

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- (B) Identify the permit status of each program element (temporary, provisional, or permitted).
- (C) Identify the permitted facility by business name and address.
- (D) Specify the permit issuance date.
- (E) Specify the effective term of the permit.
- (4) Addenda which will be used to document permit conditions for each applicable element of the Unified Program.
- (5) The consolidated permit cycle established for the CUPA.
- (6) A description of the procedure and process that the CUPA shall use to address any coordination, consolidation, or consistency issues not specifically addressed above.

Authority cited: Sections 25404(b) (c), (d), (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404.2(a)(1) and (2), 25299.6 and 25503.4, Health and Safety Code; Section 8670.36.5, Government Code.

15200. How must inspection and enforcement occur within the Unified Program?

- (a) The Unified Program shall include a single Unified Inspection and Enforcement Program which shall be implemented according to the Inspection and Enforcement Program Plan identified in subsection (f) of this Section.
- (b) The following types of inspections shall be conducted within the Unified Program and shall be conducted according to the standards contained in statute and regulation:
 - (1) Hazardous waste generator inspections [refer to Sections 25150, 25159, Health and Safety Code; Chapter 12, Division 4.5, Title 22 of the California Code of Regulations].
 - (2) Inspection of onsite hazardous waste treatment activities under the conditionally exempt, conditionally authorized, and permit by rule tiers of Tiered Permitting [refer to Sections 25200.3, 25201.5, Health and Safety Code; Chapter 45, Division 4.5, Title 22 of the California Code of Regulations].
 - (3) Underground Storage Tank Program inspections [refer to Section 25288, Health and Safety Code; Section 2712 et seq., Chapter 16, Division 3, Title 23 of the California Code of Regulations].
 - (4) Business Plan Program inspections [refer to Section 25500 et seq., Health and Safety Code].
 - (5) Risk Management and Prevention Program inspections [refer to Section 25533 et seq., Health and Safety Code].
 - (6) Other inspections that may be consolidated pursuant to Health and Safety Code, Section 25404.2(a)(1).

Figure 4 - MANDATED INSPECTION FREQUENCIES		
Program Element	Inspection Frequency	Statutory Reference
Hazardous Waste Generator Program	No mandated Frequency	
Hazardous Waste Treatment Activities – PBR, CA and CE	at least once every 3 years	Health & Safety Code Section 25201.4(b) modified by SB 1191, 1995
Underground Storage Tank Program	at least once every 3 years	Health & Safety Code Section 25288(a)
Business Plan Program	at least once every 3 years	Health & Safety Code Section 25508(b)
Risk Management and Prevention Plans and Inventory Program	at least once every 3 years	Health & Safety Code Section 25537

(c) The CUPA shall encourage an integrated/multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement and deterrence of violations affecting more than one environmental medium or regulatory scheme.

(d) In addition to the mandatory elements of Health and Safety Code, Division 20, Chapter 6.5, the CUPA may integrate optional waste reduction and pollution prevention programs into the Unified Inspection and Enforcement Program.

(e) These regulations shall not limit the authority of any state agency to investigate alleged violations of state law. These regulations shall not limit appropriate state agencies from taking any other actions which are mandated, allowed or authorized pursuant to state law.

(1) The Department of Toxic Substances Control will notify the appropriate CUPA of any investigation it will conduct of hazardous waste generators, hazardous waste generators conducting treatment conditionally authorized pursuant to Section 25200.3, hazardous waste generators conducting treatment conditionally exempted pursuant to Section 25201.5, and facilities deemed to hold

a permit-by-rule pursuant to the regulations adopted by the Department. The CUPA shall not disseminate information related to an ongoing investigation.

(f) The applicant agency shall develop and the Certified Unified Program Agency shall implement an Inspection and Enforcement Program Plan. The Inspection and Enforcement Program Plan shall be prepared in cooperation with all proposed participating agencies of the jurisdiction and shall contain provisions for administering all program elements.

(1) The plan shall include an inspection component. The inspection component shall include the following:

- (A) The number of regulated businesses within each program element and the mandated frequency of inspections for those regulated businesses.
- (B) A schedule of the frequency of inspections to be conducted, which shall meet the minimum inspection frequency(s) mandated in statutes.
- (C) If there is no mandated inspection frequency, inspection frequency scheduling shall consider the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials, emergency response capability, compliance history and any other pertinent local issues.
- (D) Provisions to promote integrated multi-media inspections.
- (E) A mechanism to ensure that Unified Program inspector training meets or exceeds requirements currently set forth in statute or regulation.
- (F) Methods to cross-train staff.
- (G) To the maximum extent feasible, coordinate inspection and enforcement efforts between the CUPA and its participating agencies.

(2) The plan shall include an enforcement component. The Enforcement Component shall include the following:

- (A) A description of responsible agency enforcement notification procedures which ensure the following:
 - (i) appropriate confidentiality.
 - (ii) coordination and timely notification between responsible agencies and the appropriate prosecuting agency.
- (B) Uniform and coordinated application of enforcement standards.
- (C) Penalties and enforcement actions which are consistent and predictable for similar violations and no less stringent than state statute and regulations.
- (D) A graduated series of enforcement actions which may be taken by the responsible agencies, based on the severity of the violation.
- (E) Provisions for county and/or regional meetings of the CUPA with its participating agencies and between the CUPAs in a county-wide or

regional area involving multiple CUPAs at least every quarter. The purpose of the meetings will be to discuss integrate/multi-media

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enforcement programs which include joint and combined inspection and enforcement.

(F) A description of the efforts made to eliminate duplication, inconsistencies and lack of coordination within inspection and enforcement programs.

(G) Provisions to encourage joint, combined and integrated/multi-media inspections whenever possible.

(3) The Inspection and Enforcement Program plan shall at a minimum be annually reviewed by the CUPA.

(A) The CUPA shall consult with and reach consensus with the participating agency prior to any changes which affect program elements for which the participating agency is responsible.

(B) The CUPA shall prepare a summary of the annual plan review, pursuant to Section 15280(a)(2). The summary shall discuss effectiveness and efficiency of the Inspection and Enforcement Program activities for the prior year.

(4) The CUPA shall update the plan as necessary.

Authority cited: Sections 25404, 25404.2 and 25404.6(c), Health and Safety Code; Section 6254(f), Government Code. Reference: Sections 25404(c) and (d), 25404.2, 25404.2(a) and (c), 25404.4(b)(3), 25150, 25159, 25179.4, 25200.3, 25201.5, 25288, 25500 and 25533, Health and Safety Code; Section 6254(f), Government Code.

15210. *What is a Single Fee System and how must it operate?*

(a) Each applicant agency shall develop and each CUPA shall implement a Single Fee System which shall replace, within its jurisdiction, all fees currently mandated in Health and Safety Code, Sections 25205.14 (Tiered Permitting), 25287 (Underground Storage Tanks), 25513 (Business Plans), 25535.2 (Risk Management Prevention Plans) and any other fees levied by a local agency specifically to fund the implementation of the programs specified in Health and Safety Code, Section 25404(c).

(1) The Single Fee System may be used to charge fees for programs which are not listed as Unified Program elements in Health and Safety Code, Section 25404(c), if those programs are incorporated into the Unified Program.

(2) The Single Fee System may reflect variations in cost to implement and maintain programs for different regulated businesses.

(A) Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs

(B) Fees may differ from one jurisdiction to the next, based on the necessary and reasonable costs to implement the Unified Program.

- (C) The fee schedule may be adjusted by the CUPA to reflect changes in reasonable and necessary costs.
 - (3) Provided the single fee system meets the minimum requirements of the law, a CUPA or a participating agency has the authority to determine the level of service it will provide and to set its fees to fund the necessary and reasonable costs of its program.
 - (4) Each participating agency shall notify the CUPA of its program costs. The CUPA shall ensure that all funds collected on behalf of the participating agency are forwarded to the participating agency.
 - (A) The CUPA shall pay the participating agency within 45 days of receiving fees designated for the participating agency unless the participating agency and CUPA agree in writing to an alternate schedule.
 - (5) Each billing statement shall itemize the fees by program element, if those fee elements are calculated separately.
 - (6) Fees for non-recurring activities of the CUPA or participating agency such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the single fee billing.
 - (7) The governing body of the CUPA shall establish the fee schedule for businesses regulated under the Unified Program. The governing body of the CUPA shall utilize the fee schedules established by the participating agencies and authorize the collection of those fees.
 - (8) The CUPA or participating agency shall make fee schedules available to interested parties upon request.
 - (9) The applicant agency shall develop, and if certified, implement a mechanism to resolve fee disputes which arise between the CUPA and participating agencies, between a regulated business and either the responsible agency or the CUPA, or between a regulated business and the state regarding the state surcharge [refer to Section 15250(d)].
- (b) Each CUPA shall implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed.
- (1) The fee accountability program shall be instituted before the single fee system. The fee accountability program shall include at a minimum the following elements:
 - (A) A procedure of accounting for: the fee schedule, the actual amount billed, and the revenue collected.
 - (B) Discrete billable services, categorized as either site specific or general.
 - (C) Staff work hours required to implement the program.
 - (D) Direct program expenses including durable and disposable equipment.
 - (E) Indirect program expenses including overhead for facilities and

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administrative functions.

(F) The number of regulated businesses in each program element within the jurisdiction.

(G) Total number of regulated businesses in the jurisdiction.

(H) Quantity and range of services provided, including frequency of inspection.

(2) The CUPA and participating agencies shall annually review and update the fee accountability program.

(c) The Single Fee System shall include mechanisms for the billing, collection and transmittal of the state surcharge.

(1) The CUPA may show the state surcharge as a separate item or items within the single fee billing.

(2) The CUPA shall transmit to the Secretary all surcharge revenues collected in accordance with Health and Safety Code Section 25404.5(b). Table 7 shall be used as a cover for all transmittals, unless otherwise agreed upon between the applicant agency and the Secretary.

(d) The CUPA shall provide the Secretary with information necessary for determination of the annual surcharge.

(1) The applicant agency shall include in the application for certification the number of regulated businesses and the number of underground tanks in its jurisdiction [refer to Section 15150(e)(4)].

(2) The CUPA shall update the data required in this subsection annually and shall report such data to the Secretary by September 30 of each year using Table 8, unless otherwise agreed upon between the applicant agency and the Secretary [refer to Sections 15250(c) and 15280(b)].

(3) If the Secretary does not receive current information on the regulated business from each CUPA, the Secretary may use whatever information is available to estimate the data on regulated business.

Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b) and (c) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(a)(1), 25404.4, and 25404.5, Health and Safety Code.

15220. How should the Unified Program transition from a multiple fee system to a single fee system?

- (a) The applicant agency shall develop a single fee system implementation plan which provides for a transition from multiple billing statements and collection agencies within the Unified Program, to a single billing statement and collection agency within the Unified Program.
 - (1) The applicant agency shall provide for public participation and review of the proposed single fee system implementation plan.
 - (2) The implementation plan shall provide for a transition period no longer than 5 years.
 - (3) The implementation plan shall provide for regulated businesses to receive a single billing statement annually which includes all recurring Unified Program activity fees.
 - (4) The implementation plan shall provide for regulated businesses to remit Unified Program fees with a single payment.
 - (5) The single fee system implementation plan shall include provisions for instances of non-payment.

- (b) A CUPA which has partially implemented the single fee system but requires an extension of the transition period may petition the Secretary for an extension of the five year limit.
 - (1) The CUPA shall submit such petition at least one year prior to expiration of the five year limit.
 - (2) The Secretary shall rule on such petitions within 180 days of receipt of the request for extension.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Section 25404.5(a) and (c), Health and Safety Code.

15230. What are a participating agency's responsibilities within the Single Fee System?

- (a) Establish fees which reflect the necessary and reasonable costs of implementing the associated program element or elements.

- (b) Notify the CUPA of that fee amount within the time frame as identified in the Unified Program single fee system implementation plan.

Authority cited: Sections 25404(b), 25404.5(a)(2) and (a)(3), Health and Safety Code.
Reference: Section 25404.5(a)(2) and (3), Health and Safety Code.

15240. *What is the State's responsibility with regard to the Surcharge?*

(a) The Secretary shall determine the annual surcharge based on the assumptions, calculations, and supporting data that justify the reasonable and necessary costs of CUPA oversight and program element management by state agencies with responsibilities under the Unified Program.

(1) The Secretary shall determine the amount of the surcharge based upon information received from each state agency responsible for activities under Health and Safety Code, Chapter 6.11.

(2) Each state agency responsible for activities under Health and Safety Code, Chapter 6.11 shall submit to the Secretary annually, on a date specified by the Secretary, but not later than February 1, its projected reasonable and necessary costs, including the detailed supporting information for the upcoming fiscal year to carry out responsibilities under Health and Safety Code Division 20, Chapter 6.11.

(3) Reasonable and necessary costs shall include the costs of bad debts and uncollected fees.

(b) The Secretary shall annually adopt a schedule for the state surcharge to be assessed on regulated businesses. A regulated business that is covered by multiple subsections of the definition, Section 15110(a), shall be counted as one regulated business.

(c) The Secretary shall determine the amount of state surcharge to be assessed on each regulated business by setting the following components, as necessary.

(1) A component for oversight of each CUPA assessed on all regulated businesses pursuant to Health and Safety Code, Section 25404.5(b). This oversight fee includes the necessary and reasonable costs of the Governor's Office of Emergency Services and the California State Fire Marshal, excluding the costs contained in subsection (3)(A).

(A) This component is calculated by dividing the total necessary and reasonable costs of the Governor's Office of Emergency Services and the California State Fire Marshal for oversight by the total number of regulated businesses reported by all CUPAs in section 15210(d). The number of regulated businesses does not count businesses in those counties who have a waiver of assessing the surcharge granted by the Secretary under the provisions of Health and Safety Code, Section 25404.5(d).

(2) A component assessed on regulated businesses for each underground storage tank which meet the criteria of Health and Safety Code, Sections 25281(x) and 25287. This covers the necessary and reasonable costs of the State Water Resources Control Board.

(A) This component is calculated by dividing the total necessary and reasonable costs of the State Water Resources Control Board for oversight by the total number of underground tanks reported by all CUPAs in section 15210(d). The number of regulated businesses does not count businesses in those counties who have a waiver of assessing the surcharge granted by the Secretary under the provisions of Health and Safety Code, Section 25404.5(d).

(3) A component assessed on businesses regulated under the Health and Safety Code, Section 25531 et seq, the California Accidental Release Prevention program. This component is authorized by Health and Safety Code, Section 25531.2 and Section 25404.5(b). It covers the necessary and reasonable costs incurred by the Governor's Office of Emergency Services for the implementation of the California Accidental Release Prevention program.

(A) This component is calculated by dividing the total necessary and reasonable costs of the Governor's Office of Emergency Services for implementing the California Accidental Release Prevention program by the total number of businesses regulated by the California Accidental Release Prevention program. This surcharge component is assessed on a single company or business within a CUPA's jurisdiction, regardless of the business's number of stationary sources.

(1) A business is not required to pay the CalARP program component of the surcharge if a CUPA makes a determination that there is not a significant likelihood of a regulated substances accident risk and does not require the preparation and submission of a risk management plan at any stationary source operated by that business in the CUPA's jurisdiction, pursuant to Health and Safety Code, Section 25534.

This CalARP program surcharge component waiver is effective starting in the following fiscal year after the determination is made by the CUPA. If subsequent changes lead to a re-determination and a requirement by the CUPA to prepare and submit any risk management plan at any of the business's stationary source(s), then this surcharge component will be assessed beginning in the following fiscal year.

(d) The Secretary shall resolve those state surcharge disputes which cannot be resolved locally pursuant to Section 15250(d).

(e) The Secretary shall publish the tentative state surcharge annually not later than March 1, and shall publish the final state surcharge annually not later than September 30 in the

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California Regulatory Notice Register.

Authority cited: Sections 25404(b) and (d), 25404.6(c), and 25531.2, Health and Safety Code.
Reference: Section 25404.5(b) and 25534, Health and Safety Code.

15250. *What is the CUPA's responsibility with regard to the Surcharge?*

(a) Collection and record keeping.

- (1)** The CUPA shall implement procedures to ensure collection of the surcharge. These procedures should address at a minimum, the suspension of permits for non-payment or late payment.
- (2)** The surcharge may be shown as a separate item on billing statements sent out to regulated businesses.
- (3)** The CUPA shall meet surcharge collection and reporting requirements for all program elements within its Unified Program.
- (4)** Willful or negligent failure to collect the surcharge may be a basis for withdrawing the CUPA's certification.
- (5)** The CUPA or other Responsible Agency shall retain surcharge billing and collection records for five (5) years following closure of any billing period or until completion of any audit in process, whichever is longer.
- (6)** The CUPA shall provide access to surcharge billing, collection and transmittal records within 60 days following a request from the Secretary.
- (7)** The CUPA shall begin assessing the surcharge within its first billing cycle or within twelve months after the effective date of certification, whichever is shorter. The full surcharge will be assessed and collected within twelve months of the effective date of certification and every twelve months thereafter.
- (8)** The CUPA may waive the state surcharge for specific regulated businesses provided that the criteria for waiving the state surcharge meets the same standards as those established by the CUPA for waiving the single fee. The state surcharge may not be waived for any regulated business so long as the regulated business is assessed a fee under the single fee system.

(b) Remittance to the Secretary.

- (1)** The CUPA shall transmit all collected state surcharge revenues to the Secretary quarterly, within 30 days of the end of each state fiscal quarter.
 - (A)** With each surcharge transmittal the CUPA shall separately report the amount of surcharge revenues collected for: CUPA oversight, regulated underground storage tanks, and the CalARP Program.
 - (B)** Failure to transmit the surcharge after collection may be a basis for withdrawing the CUPA's certification.

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(C) Remit the collected state surcharge revenues with a completed copy of Report 1 to:

Secretary for Environmental Protection
c/o DTSC Accounting Office
Unified Program Account
P.O. Box 806
Sacramento, CA 95812-0806

(c) Reporting to the Secretary that information necessary to determine surcharge.

(1) The applicant agency shall include in the application for certification: the number of regulated businesses and the number of underground tanks in its jurisdiction and the number of businesses regulated under the CalARP Program prior to certification.

(2) Each CUPA shall provide to the Secretary by September 30, annually, the summary reports required in Section 15290.

(3) The Secretary shall provide copies of the received summary reports required pursuant to Section 15290 to any state agency with program element responsibilities under the Unified Program upon request.

(d) Surcharge dispute resolution or referral.

(1) The CUPA shall prepare and implement a plan to resolve disputes with regulated businesses involving the state surcharge. The dispute resolution process may allow the CUPA to waive the state surcharge or a portion of the surcharge for specific regulated businesses, provided that:

(A) The criteria for waiving the state surcharge shall meet the same standards as those established by the CUPA for waiving the single fee.

(B) The portions of the state surcharge for oversight may not be waived for any regulated business as long as the CUPA is receiving a single fee from that regulated business.

(2) The Secretary may revoke the CUPA's authority to waive state surcharge fees if it is determined that the CUPA consistently does not make a reasonable, good faith effort to protect the State's interests or is not following the established criteria for waiving the state surcharge.

(2) The CUPA shall attempt to resolve disputes involving the surcharge. Those

disputes which cannot be resolved locally may be referred to the Secretary.

(A) Disputes referred to the Secretary shall be in writing and shall include a recommendation for resolution.

(e) The CUPA shall provide access to surcharge billing, collection and transmittal records

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upon the Secretary's request.

(f) The responsible agency shall retain surcharge billing and collection records for five (5) years following closure of any billing period or until completion of any audit in process, whichever is longer.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.5(a)(1), (2) and (4) and 25404.5(b), Health and Safety Code.

15260. *What technical expertise and ongoing training is required of a CUPA?*

(a) In the application for certification each applicant agency shall present evidence that adequate technical expertise is possessed by staff.

(1) Agencies presently implementing one or more program elements of the Unified Program shall be considered to possess adequate expertise to implement those specific program elements as participating agencies or as the CUPA. This information will be obtained from the application pursuant to Section 15150.

(2) Agencies which will assume new program elements as a CUPA or a participating agency are required to meet the standards in effect at the time of application for those program elements.

(3) Agencies that will seek certification as a CUPA are also required to meet the following minimum qualifications:

(A) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements must meet the following minimum educational requirements:

(i) Thirty (30) semester units earned from an accredited college or institution approved by the California Superintendent of Public Instruction under the provisions of California Education Code Section 94310(b), from one or more of the following disciplines:

(aa) biology or microbiology

(bb) chemistry, chemical engineering

(cc) physics, physical science

(dd) environmental science

(ee) geology or soil science

(ff) environmental health

(gg) environmental or sanitary engineering

(hh) toxicology

(ii) industrial hygiene

(jj) hazardous materials management

(kk) fire science, fire technology;

- OR -

(ii) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code Section 94301(b) with major course work in the disciplines listed in Paragraph (3)(A)(i);

- OR -

(iii) Qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education, on the basis of one year of qualifying experience for 15 units of college course work authorized pursuant to Paragraph (A)(i), for up to a maximum of 15 units.

(B) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements shall meet minimum hours of training or experience requirements contained in subdivision (d)(3)(B) of this section, for all the following subject areas:

- (i)** Regulatory overview;
- (ii)** Classification, identification, and chemistry of hazardous materials and hazardous waste;
- (iii)** Health and environmental effects of hazardous substances, including chemical exposure and route of entry;
- (iv)** Sampling methodologies and use of instrumentation for detection and sampling of hazardous substances;
- (v)** Conducting inspections and enforcement actions, and writing inspection reports and notice of violation;
- (vi)** Interviewing, case development, and collection and preservation of evidence.

(b) One or more CUPA technical staff or supervisors, as needed to effectively meet the requirements of Paragraphs (3)(A) and (3)(B), shall meet the requirements of subdivision (d) of this section.

(c) The applicant agency shall identify the specific types of ongoing training which technical staff and supervisors are required to receive. Technical staff and supervisors of the CUPA and participating agencies shall receive training in the following areas:

- (1)** hazardous materials and hazardous waste permitting, inspection and enforcement duties and responsibilities pursuant to state law and regulation, and to

local ordinances and resolutions;

(2) inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;

(3) administration practices within a hazardous materials and hazardous waste program;

(4) monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis

(5) field staff health and safety training including:

planning field inspections, safety equipment, on-site procedures, decontamination and hazard recognition and avoidance.

(d) (1) Education Requirements:

(A) Equivalent to graduation from an accredited college or university or equivalent degree approved by the California Superintendent of Public Instruction under the provisions of California Education Code section 94310(b) with major course work in biological, chemical, physical, environmental or soil science; environmental health; environmental or sanitary engineering; toxicology; industrial hygiene; or a related field. Additional qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education on the basis of one year of qualifying experience for each year of college work for up to a maximum of two years. When substituting experience for education, qualifying education must include a minimum of 30 semester units in natural science from an accredited college or equivalent units from an institution approved as above; or

(B) Registration as an Environmental Health Specialist may be substituted for the required education.

(2) Participating staff shall have a minimum of one year experience in conducting hazardous materials or hazardous waste regulatory inspections.

(3) Staff participating in field order issuance shall complete the following minimum training:

(A) Health and safety training as specified in section 5192(e) Title 8, California Code of Regulations;

(B) 100 hours of training in regulatory investigative techniques including

training in the following subjects:

(i) Federal and state statutes and regulations on hazardous waste control;

(ii) Conducting an inspection;

(iii) Waste classification;

- (iv) Inspection report writing;
 - (v) Collection and preservation of samples;
 - (vi) Enforcement response options;
 - (vii) Writing reports of violation;
 - (viii) Interviewing;
 - (ix) Case development;
 - (x) Collection and preservation of evidence;
 - (xi) Witness training;
 - (xii) Rules of evidence and administrative hearing process; and
 - (xiii) Training on the issuance of field orders.
- (C) Staff participating in the desk order process and conducting informal hearings under the field order process shall have 24 hours of training in the following additional areas:
- (i) Training on penalty assessment;
 - (ii) Negotiation techniques; and
 - (iii) Training on the issuance of desk orders.
- (D) It shall be the responsibility of the CUPA to document the training and experience of staff participating in this program.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1), and 25404.3(b)(1),(4),(5) and (7), Health and Safety Code.

15270. What technical expertise and ongoing training is required of a participating agency?

- (a) A participating agency implementing one or more of the program elements on or before December 31, 1995 shall be considered qualified to implement those specific program element(s) [refer to Section 15260(a)(1)].
- (b) A participating agency that does not implement one or more program elements as of December 31, 1995, but intends to assume responsibility for implementation of a program element is required to meet the standards in effect at the time of application for that program element [refer to Section 15260(a)(2)].
- (c) Participating agency technical staff and supervisors shall meet the ongoing training requirements identified in Section 15260(c).

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c) and (d), 25404.1(a)(1), 25404.1(b)(2) and (4), 25404.3(b)(1),(4),(5) and (7), Health and

Article 6. CUPA Self-Auditing and Reporting

15280. *What auditing requirements must the CUPA follow?*

(a) A self-audit is an evaluation conducted by the CUPA of its annual Unified Program activities and includes an evaluation of any participating agencies or other contracting agencies.

(1) The CUPA shall conduct an annual self-audit at the end of each state fiscal year. Annual self-audit reports shall be completed by September 30 of each year. The time period covered by each self-audit is the state fiscal year from July 1 through June 30 of each year.

(2) The first self-audit report shall be produced by September 30 following a full year of operation as a CUPA and shall be maintained on file by the CUPA for a period of five (5) years.

(3) Upon written request of the Secretary or a state agency responsible for overseeing one or more program elements, the CUPA shall forward the self-audit to the person or agency making the request upon 60 days notice.

(4) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code Sections 25404.3(f) or 25533(f), the self-audit shall only include information on the program element or elements that particular agency is authorized to continue to operate and shall not include information related to the surcharge or single fee system.

(b) The self-audit shall include the following:

(1) The CUPA's self-audit includes an evaluation of participating agency performance.

(A) The self-audit shall address at a minimum all program elements including the periodic evaluation of participating agencies and a report of deficiencies with a plan of correction [refer to Section 15180(a)(8)].

(A) The CUPA shall prepare a summary of the findings of each self-audit and shall maintain the summary and self-audit records at the primary CUPA address provided in the application or as

subsequently revised by the CUPA and provided to the Secretary at the address given in Section 15290(c).

(2) Narrative summaries of program element activities including, but not limited to the effectiveness and efficiency of permitting and inspection and enforcement activities undertaken and a copy of the annual, biennial, and

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quarterly reports of program activities submitted to the Secretary pursuant to Section 15290.

- (3) A summary of Single Fee System activities.
- (4) A narrative summary of the progress made toward consolidating, coordinating, and making consistent the Unified Program.
- (5) A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.
- (6) A narrative summary of the annual review and update of the fee accountability program as required by Section 15210(b)(2).
- (7) A summary of new programs being included in the Unified Program.
- (8) A demonstration that the CUPA has satisfied the specific self-audit and performance standards established in regulation by the Secretary or the state agencies responsible for one or more of the program elements.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(b), (c) and (d), 25404.4(a)(1), and 25404.5(b).

15290. *What reports must the CUPA submit to the State?*

(a) The CUPA shall submit the following reports for the previous fiscal year to the Secretary by September 30 of each year. The first reports shall be submitted by September 30 following a full State fiscal year of operation as a CUPA.

(1) The Annual Single Fee Summary Report using Report 2. It includes:

- (A) The amount of the single fee billed and the amount collected.
- (B) The amount of any funds due to participating agencies and the amount actually transmitted.
- (C) The amount of surcharge billed, the amount of surcharge waived, and the amount of surcharge collected for each of the following categories:
 - (i) CUPA oversight
 - (ii) regulated underground tanks
 - (iii) California Accidental Release Prevention program
- (D) If the CUPA believes that the number of regulated businesses will change significantly in the current year or in the next year, then estimates of those changes for each program element will be

provided in a cover letter with Report 2.

- (E) A count for the year of the report of the total regulated businesses, underground storage tank facilities, underground storage tanks, onsite hazardous waste treatment facilities (permit by rule, conditionally authorized, and conditionally exempt), CalARP program stationary sources, waivers granted to stationary sources, and businesses subject to

the CalARP program surcharge.

(2) Annual Inspection Summary Report, using Report 3, provides summary information for each program element. The hazardous waste element is separated into parts for generators, large quantity generators, recyclers, and onsite treatment as shown on Report 3. The summary information includes the number of regulated businesses, total number of inspections, routine inspections, other inspections, and the inspected businesses that returned to compliance within established standards after routine inspections. Established standards vary by program element and are found in either state law or regulations, or the CUPA may adopt more stringent standards by local ordinance or in its application for certification. The report also collects total counts (not by program element) for these types of inspections: combined routine, joint, and integrated/multi-media; and a count of Risk Management Plan audits for the CalARP program.

(3) Annual Enforcement Summary Report, using Report 4, provides summary information for each program element. The hazardous waste element is separated into parts for generators, large quantity generators, recyclers, and onsite treatment, as shown on Report 4. The summary information includes the number of facilities with violations by type of violation; the number of informal enforcement actions; the total number of administrative actions, civil and criminal referrals and enforcement actions; and the total amount of fines and penalties initially assessed and collected. For the Class I and II violations within the hazardous waste program, it also provides a count of the total number of formal enforcement actions that were initiated within 135 days from the first day of a routine inspection or after making a determination of the violations for a complaint investigation. (This last count excludes minor violations.)

(b) The CUPA shall submit the **Biennial Tiered Permitting Release Report, using Report 5,** to the Secretary for the previous two-year period by August 30, every other year starting in 2000. This report provides a listing of all unauthorized and accidental releases to the environment from any onsite tiered permitting facility. This includes releases identified by the CUPA or other responding agencies or as self-reported to the CUPA by the regulated business. The report includes the EPA ID number, facility name and address, type of facility (based on the highest tier), date of the release,

description of release, and whether the corrective action is completed at the time of the report.

(c) Reports 2 through 5 shall be submitted by the CUPA to the:

Secretary for Environmental Protection
c/o DTSC Unified Program Section
P.O. Box 806
Sacramento, CA 95812-0806

(d) On a quarterly basis, each CUPA shall send information pertaining to local underground storage tank program implementation to the State Water Resources Control Board. This report shall satisfy the requirements of Health and Safety Code, Section 25299.7(b) and CCR Title 23, Section 2713.

(1) Quarterly Underground Storage Tank (UST) Program Report, using Report 6, provides information on quarterly changes to the count of regulated tank facilities; the number of active and permanently closed petroleum and hazardous substances tank systems; the completed UST facility inspections; and both a count and percent calculation of active UST systems with approved leak detection systems and the count and percent of UST systems that meet the 1998 upgrade or replacement requirements. This report is a turnaround document that is provided quarterly by the State Water Resources Control Board to each CUPA showing the previous quarter's information reported by the CUPA. The CUPA will also review and verify the information shown from the previous quarter and make any appropriate changes.

(2) The quarterly reports shall be submitted 60 days after the end of each quarter to the:

State Water Resources Control Board
Division of Clean Water Programs, UST Program
P.O. Box 944212
Sacramento, CA 94244-2120

(e) The periodic reports required by Sections 15250 and 15290 shall be submitted in a paper form, unless the CUPA requests to submit the reports electronically and obtains the Secretary's prior approval of the file format.

(f) If the CUPA chooses to submit Reports 3-6, required by Section 15290, to the State in an electronic format, the CUPA shall:

(1) Meet the standards specified in Sections 15185 and 15187,

(3) Submit the data using the same layout and present the required information in the same order and general sequencing for each page as shown on each

report, or use a facsimile version thereof.

(3) Collect and report all of the information found on the report that applies to the CUPA.

(g) Upon the written request of the Secretary or an authorized agent, or a state agency responsible for one or more program elements, the CUPA shall provide information listed in or derived from any part of the Unified Program Data Dictionary [refer to Appendices C and D] to the person or agency making the request within 60 days. The scope of these requests by the Secretary for information on facilities and/or CUPA activities is limited to

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data included in the data dictionary. These additional data reports shall be submitted in a paper form, unless the person or agency making the request approves a CUPA's request to submit the reports electronically. CUPAs may request an extension upon showing good cause.

(h) Nothing in this section shall limit the authority of the Secretary to request records or documents that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA. The CUPA shall provide this information to the Secretary within 60 days.

(i) Any other program reports required by federal or state law. The CUPA shall provide this information to the person or agency making the request within 60 days.

(j) The CUPAs shall report using the formats of Report 1 through 6, however, in 1998-99, CUPAs may submit incomplete Reports 3 and 4, if information on CUPA activities had not been collected using these categories for that entire reporting period. In those cases, the CUPA shall submit additional available information demonstrating inspection and enforcement activities for the 1998-99 fiscal year. Complete reports are required for the 1999-2000 fiscal year and subsequent submissions.

(k) An agency authorized to operate a program element or elements pursuant to Health and Safety Code Sections 25404.3(f) or 25533(f) shall only report information on the implementation of the program element or elements that particular agency is authorized to operate and shall not include information related to the surcharge or single fee system.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25171, 25171.5, 25299.3(b), 25404(b), (c) and (d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code.

Article 7. Changes In The Program

15300. *What activities require prior notification and approval of the Secretary?*

(a) A CUPA must notify and receive approval from the Secretary prior to instituting the following significant changes:

- (1) Addition or deletion of a program element;
- (2) Replacement or addition of a participating agency.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 235404.2(c) and 25404.3(d), Health and Safety Code.

15310. What are the notification and approval procedures for activities which require prior approval from the Secretary?

(a) The CUPA shall submit a proposal for a significant change in the Unified Program, as identified in Section 15300, to the Secretary for approval prior to instituting that change.

(1) The CUPA shall submit a modification to all applicable sections of the application for certification with its proposal for a significant change in the Unified Program.

(2) The CUPA shall simultaneously send a copy of the proposed change to the affected participating agency.

(3) Any participating agency involved in implementing a program element that is subject to proposed change shall have the opportunity to provide information related to the issue.

(b) The Secretary shall review proposed significant changes to a Unified Program following the steps identified in Section 15160, and may conduct a public hearing when necessary. The Secretary shall complete the review within 180 days.

(c) The Secretary shall follow the certification appeal process pursuant to Section 15160 if the CUPA appeals a decision pursuant to this subdivision.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(c), 25404.3 and 25404.4(a), Health and Safety Code.

15320. What procedure will be followed if withdrawal of a Certification becomes necessary?

(a) During periodic review of the Unified Program, or review of an amended application, if the Secretary finds the program or the program implementation to be deficient, the Secretary may:

(1) Issue a Notice of Intent to withdraw certification or

(2) Enter into a program improvement agreement with the CUPA to correct the deficiencies.

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(b) A Notice of Intent to withdraw certification shall include specific reasons why the CUPA has failed to meet its obligations, in accordance with Section 25404.4 of the Health and Safety Code, to adequately implement the Unified Program within its jurisdiction.

(1) A period of 60 days shall be allowed for the CUPA to respond to the Notice of Intent to withdraw certification and to correct deficiencies.

(2) A public hearing may be scheduled, at which the Secretary may hear the CUPA's response to the Notice of Intent to withdraw.

(c) If a city or joint powers agency certified as a CUPA and implementing the Unified Program within a city desires to withdraw as a CUPA, it shall give 180 days notice to the Secretary and to the county within which the city is located or to the joint powers agency with which the county has an agreement to implement the Unified Program prior to withdrawing from its Unified Program obligations. A successor CUPA will be chosen in accordance with the provisions of Section 25404.3(f) of the Health and Safety Code.

Authority cited: Sections 25404, 25404(b), 25404.3(g) and 25404.6(c), Health and Safety Code.
Reference: Sections 25404.3(g) and 25404.4(a), Health and Safety Code.

Article 8. State Performance Evaluation of CUPAs

15330. *Under what circumstances will a CUPA and its participating agencies be evaluated after certification?*

(a) The Secretary shall coordinate the evaluation of a CUPA's implementation of the requirements of Health and Safety Code, Chapter 6.11 and California Code of Regulations, Title 27, Chapter 1 at least once every three years. The Secretary shall coordinate the evaluation of a CUPA with all state agencies with Unified Program responsibilities.

(1) The annual self-auditing and reporting requirements pursuant to Sections 15280 and 15290 and the specific performance standards established in regulation by the Secretary or the state agencies responsible for one or more of the program elements shall be used for the evaluation of the CUPA.

(2) Nothing in this section shall limit the authority of the Secretary to request records or documents for use in conducting the state performance evaluation that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA.

(3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to Health and Safety Code Sections 25404.3(f) or 25533(f), the performance evaluation shall only cover the program

element or elements that particular agency is authorized to continue to operate.

(b) The CUPA shall evaluate its participating agencies on an annual basis at the time of the Self-Audit pursuant to Section 15280, or as necessary to maintain standards required in Health and Safety Code, Chapter 6.11, the statutes governing specific program elements, and the specific performance standards established in regulation by the Secretary or the state agencies responsible for overseeing one or more of the program elements.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.5, 25201.13, 25201.14, 25286, 25287, 25404.2(c) and 25404.3(d), 25404.4(a)(1), and 25506, Health and Safety Code.

Article 9. Unified Program Standardized Forms and Formats

15400. *What is the Unified Program Consolidated Form?*

(a) The Unified Program Consolidated Form (UPCF) (1/99), defined in section 15110 and shown in Appendix E, is a standardized form to be used by CUPAs in the Unified Program to collect information from regulated businesses. The UPCF is a single, comprehensive format that consolidates business-to-CUPA reporting requirements within the Unified Program.

(b) The UPCF may be reproduced or electronically duplicated as needed.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5,

25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506, and 25509, Health and Safety Code.

15400.1. *What is the format of the UPCF and its required elements?*

(a) The format of the UPCF refers to the way it is organized [see Figure 5]. The UPCF contains the following sections:

(1) Facility Information, to be completed by all regulated businesses:

(A) Business Activities

(B) Business Owner/Operator Identification (OES Form 2730)

(2) Hazardous Materials:

(A) Hazardous Materials Inventory-Chemical Description (OES Form 2731)

(3) Tanks:

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- (A) Underground Storage Tank (UST) Facility (formerly SWRCB Form A)
- (B) UST Tank (formerly SWRCB Form B)
- (C) UST Installation-Certificate of Compliance (formerly SWRCB Form C)
- (4) Hazardous Waste
 - (A) Recyclable Materials Report (per Health and Safety Code Section 25143.10)
 - (B) Onsite Hazardous Waste Treatment Notification-Facility (formerly DTSC Form 1772)
 - (C) Onsite Hazardous Waste Treatment Notification-Unit (formerly DTSC Forms 1772A, B, C, D, E, and L)
 - (D) Certification of Financial Assurance for Permit by Rule and Conditionally Authorized Onsite Treaters (formerly DTSC Form 1232)
 - (E) Remote Waste Consolidation Site Annual Notification (formerly DTSC Form 1196)
 - (F) Hazardous Waste Tank Closure Certification (formerly DTSC Form 1249)

(b) Regulated businesses shall report required elements that are applicable to their business to the CUPA by submitting the sections of the UPCF, a business generated facsimile, or an alternative version developed by their CUPA.

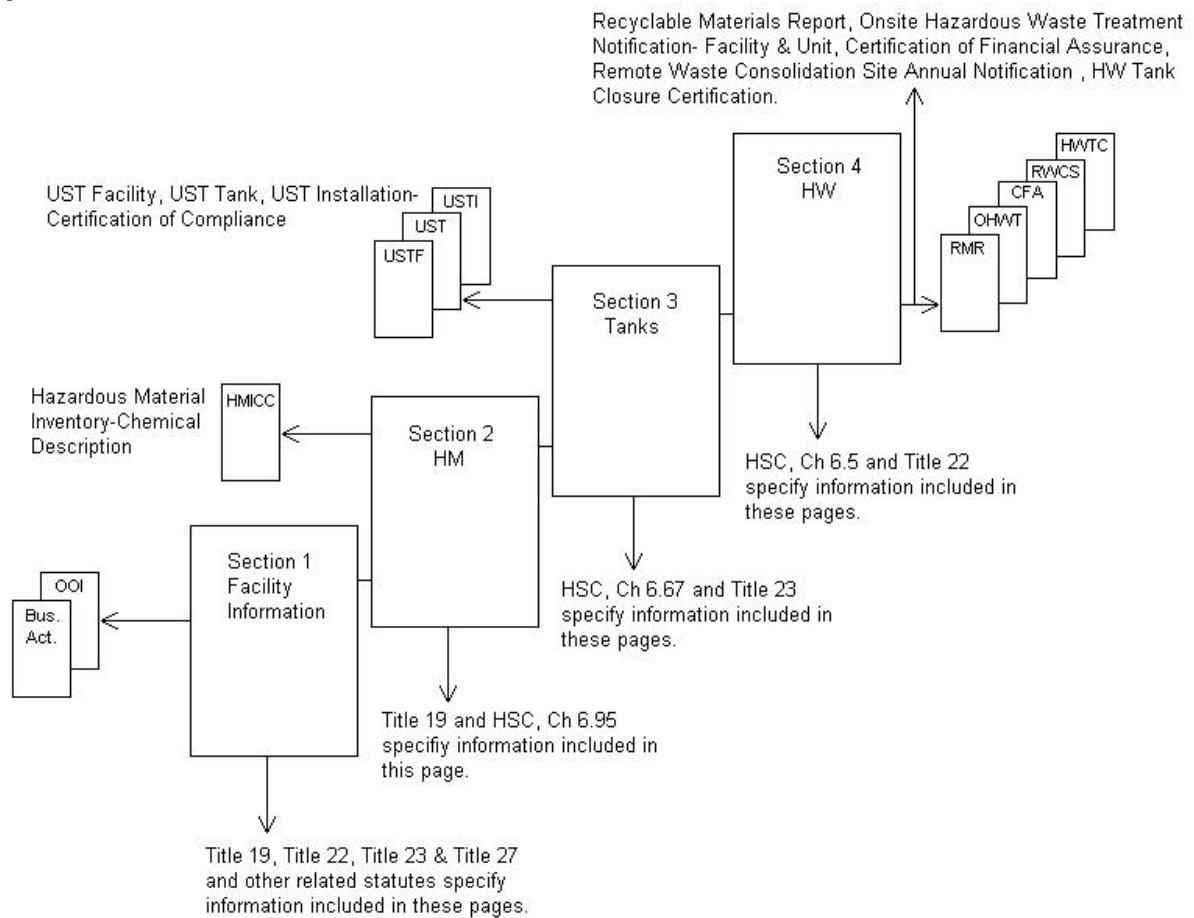
Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5,

25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506, and 25509, Health and Safety Code.

Figure 5: Unified Program Consolidated Form

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15400.2. What is the relationship between the UPCF and the forms previously adopted by State departments for the individual program elements?

(a) The Business Owner/Operator Identification page and Hazardous Materials Inventory-Chemical Description page have been adopted by the Office of Emergency Services [Reference Title 19 California Code of Regulations Sections 2729.2(a) and (b)]. These pages are incorporated into the UPCF to achieve coordination in the implementation of the Unified Program and for the convenience of CUPAs and regulated businesses.

(b) Completion of the applicable sections of the UPCF fulfills the requirements to submit the following previously used forms:

(1) The Underground Storage Tank Program Forms A, B, and C previously adopted by the State Water Resources Control Board.

(4) The Recyclable Materials Reporting Form previously adopted by the California Conference of Directors of Environmental Health (9/91).

(3) The Onsite Hazardous Waste Treatment Notification Forms previously adopted as DTSC 1772, 1772 A, B, C, D, E, L, and the Certification of Financial Assurance for Permit by Rule and Conditionally Authorized Operations, DTSC 1232 (8/96) previously adopted by the Department of Toxic Substances Control.

(4) The Remote Waste/Consolidation Site Annual Notification Form DTSC 1196.

(5) The Hazardous Waste Tank Closure Certification Form previously adopted as DTSC 1249 (8/98).

(c) To the extent not prohibited by law, completion by a regulated business of its CUPA's alternative version of the UPCF or a business generated facsimile also satisfies the requirements of the above in subdivisions (a) and (b) of this section.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506, and 25509.

15400.3. When must a CUPA use and distribute the UPCF and when are CUPA alternative versions allowed?

(a) The CUPA shall distribute copies of the UPCF to any regulated business or

member of the public upon request. A CUPA may add the name of the CUPA, a logo, and address, phone number, and other identifying information to the UPCF title or footer

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on one or more pages, without the customized UPCF being considered an alternative version subject to the conditions adopted by this section.

(b) The CUPA shall accept the UPCF as shown in Appendix E from any regulated business that chooses to use it, even if the CUPA adopts one or more alternative versions of the UPCF.

(c) A CUPA may create alternative versions of the UPCF for local purposes such as streamlining for small businesses or addressing a specific type of industry. Any alternative version of the UPCF shall:

- (1)** Collect all of the information found on the UPCF that applies to the regulated businesses using the data element definitions established by the data dictionary.
- (2)** Be consistent with the data standards adopted throughout Article 5 through 10 of these regulations.
- (3)** Use the same section order as shown in Section 15400.1.
- (4)** Be developed in consultation with all other agencies within the CUPA's jurisdiction that are responsible for fire protection, emergency response, and environmental health.
- (5)** Not duplicate data elements between sections of the UPCF other than facility ID number and facility name.
- (6)** Comply with all applicable federal and state laws.

(d) Alternative versions of the UPCF adopted by a CUPA shall include this written disclaimer statement on a cover page or the front page, printed using a font larger than or equal to 8 points for readability:

“This form was developed by the CUPA as an alternative version of the Unified Program Consolidated Form (UPCF). Businesses have the option to use it or the UPCF adopted in state regulations. The CUPA or Participating Agency (PA) must accept the state UPCF and cannot require a business to use the alternative version developed by the CUPA. The CUPA and PA can require businesses to provide additional information on either the UPCF or a supplemental page to that document.”

(e) Each CUPA shall provide instructions to the regulated businesses when distributing the UPCF and any alternative versions. These instructions must be consistent with the instructions adopted in California Code of Regulations Title 19, Article 4, Appendix B.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25503.5(a) and (b)(1) and (2), 25505, and 25509.

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15400.4. *Under what conditions will CUPAs be allowed to require businesses to submit additional information?*

(a) CUPAs shall collect additional local information on either supplemental pages or within the UPCF in the boxes provided on the Business Owner/Operator Identification page (OES Form 2730) and the Hazardous Materials Inventory-Chemical Description page (OES Form 2731).

(b) CUPAs that have created one or more alternative versions of the UPCF [refer to section 15400.3(c)] may add supplemental requests for information within the alternative version, to the extent space is available.

(c) CUPAs are prohibited from requesting duplicative information in a different format if that information is part of the Data Dictionary, the UPCF, or that CUPA's alternative version of the UPCF.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25503.3(a) and 25505.

15410. *What forms must be used by Household Hazardous Waste facilities regulated under the Unified Program?*

Reserved--under development by Cal/EPA and the Department of Toxic Substances Control

Article 10. Business Reporting to CUPAs

15600. *What documents are regulated businesses required to submit to CUPAs?*

(a) A copy of the Business Activities Page and Business Owner/Operator Page (OES Form 2730) shall be submitted with every submission of pages of the Unified Program Consolidated Form (UPCF).

(b) Regulated businesses are required to meet the reporting requirements of any applicable program element of the Unified Program. Many of those reporting requirements are satisfied by completing sections of either the UPCF, an alternative version [Refer to 15400.3], or a computer generated facsimile.

(c) Businesses may report to the CUPA electronically, if the CUPA agrees [refer to Section 15187].

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(d) Other documents may also be required by federal and state statutes and regulations or by local ordinance.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.
Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506, and 25509.

15610. *When must regulated businesses use the UPCF and when are business generated facsimiles allowed?*

(a) Regulated businesses shall use either the applicable sections of the UPCF or an alternative version of the UPCF adopted by the CUPA in their jurisdiction, if one is available.

(b) Regulated businesses may satisfy this requirement by submitting computer-generated facsimile forms. A facsimile of the UPCF shall meet the following specifications:

(1) It shall contain all the information required on the UPCF and defined by the data dictionary for those regulated businesses. It shall use the same section format and present the required information in the order and general sequencing on the page as shown on the UPCF. The facsimile form shall be printed on 8 ½ by 11 inch paper in 'portrait' format. It shall retain all labels and identifiers for the UPCF sections, pages, and subsections. Current page breaks shall be maintained, although a page for supplemental local information may be added between UPCF page breaks.

(2) It is not required to be an exact copy or to use identical fonts, boxing, shading, or other graphic design elements of the UPCF.

(c) The CUPA shall determine if business-generated facsimiles comply with the requirements of subsection (b). The CUPA may also allow businesses to submit facsimiles of their alternative versions of the UPCF.

(d) To the extent not prohibited by law, the CUPA may assist businesses to revise their information by providing copies of completed reports based on previous submittals. These reports shall be in the general format of the UPCF or the alternative version. A business that revises, certifies, and returns this report to the CUPA satisfies the

requirements to complete the appropriate sections of the UPCF. Regulated businesses are not required to use these CUPA generated reports and have the option to submit updated information using the UPCF or a facsimile.

(e) To the extent not prohibited by law, a business subject to the hazardous materials

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reporting requirements may comply with the annual inventory reporting requirement by submitting a certification statement to the CUPA if both of the following apply:

- (1) The business has previously filed the appropriate pages of the UPCF or an alternative version and
- (2) The business owner or officially designated representative signs and attests to these statements:
 - (A) The information contained in the annual inventory form most recently submitted to the CUPA is complete, accurate, and up to date.
 - (B) There has been no change in the quantity of any hazardous material as reported in the most recently submitted annual inventory form.
 - (C) No hazardous materials subject to the inventory requirements are being handled that are not listed on the most recently submitted annual inventory form.
 - (D) The most recently submitted annual inventory form contains the information required by Section 11022 of Title 42 of the United States Code.

Authority cited: Sections 25404(b), (c), (d), and (e), 25404.6(c), and 25505(d), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25501, 25503.3(b) and (c), 25503.5(c), 25505, 25506, and 25509.

15620. *When must businesses submit, update, amend, revise, or resubmit the UPCF?*

(a) Regulated businesses shall comply with the established dates or events that trigger the requirements for businesses to submit information required as part of the Unified Program and submitting the appropriate sections of the UPCF, the alternative version, or a computer generated facsimile. A CUPA may establish other specific dates for submission of information consistent with state and federal law.

(b) Different parts of the UPCF, the alternative version, or a computer generated facsimile may be submitted separately. Each submission shall be accompanied by

the Business Owner/Operator Identification page and shall be signed with an original signature. The Business Activities page shall also be resubmitted whenever any information reported on it changes.

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code.

Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5,

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25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506, and 25509.